



Here af-
ter foloweth a lyttell
treatise called the
newe addi-
cions.



In this lytell treatise be conteyned cer-
taine newe addicions to be added to þe secōde
dialoge in englysshe lately made betwexte a
Doctour of diuinitie, and a Studente in the
lawe of Englande : And the sayd addicions
treate most specialy of the power of the par-
lyament concernynge the spirituallie and the
spiritual iurisdiction/ & may as it semeth be
conueniently called the newe addicions.

The firste addicion, what the parliament
maye do concernynge the spiritual
tie and the spiritual iurisdic
tion, and what nat.



DOctor. I praye the let me
knowe thy mynde in thys
question, whether laye men
(as the thynketh) haue po
wer to make any lawes of
mortuaries? Stud. There
was a lawe made of mortuaries in the par
liament holden in the .xxi. yere of our so
uerayne lord kyng Henry the .viii. by the
assente of the kyng, and of all the lordes
spirituall and tempozall of the realme, and
of all the comons: and I holde it nat best
to reason oz to make argumentes / whether
they had auctorite to do that they dydde oz
nat. For I suppose, that no manne wolde
thynke, that they wolde do any thynge / that
they hadde nat power to do. Doctor. I
meane nat onely of mortuaries, that that
statute meaneth of, But I meane of suche
thynge as be brought to buryals of deade
persones, whereof some concerne the seruice
of god, oz the reliefe of the soule, and some
the worldly countenance: as in some places,

A.ij.

the

The fyrste

the church claymeth to haue the taper, that standeth in the myddel of the herse ouer the herte of the corpe, and some clayme to haue all the tapers: some also clayme to haue one of the torches, that is aboute the herse / and some to haue all the torches. And if the bodye be broughte in a charette / or with cote armour / or suche other / than they clayme all the horses and charet / and the apparell, or parte therof: and the coote armours or other lyke, as sequeles to the bodye. And these ryghtes and duties be called in some places mortuaries: and of these I meane moste principally in this question. I pray the lette me knowe what thou thynkest therein.

Student. I praye the lette me fyrste knowe, what is thyne opinion in this question. Doctor. I thynke that of suche of the sayde mortuaries, as the church hath ryghte in, in suche maner as is befoze rehersed, by prescription or other wyse / and of suche thinges as be ordeyned at suche burialles to the seruyce of god, or to the relpyse of the soule, that the parlyament hath no power to prohibite them, as to prohibite, that the church shulde haue no suche mortuaries, or that there shulde / nat be bydden to the buryall so many prestes, or that there shal nat be aboue

so many tapers oz torches, oz that there shal
 nat be gyven aboue suche a certayne somme
 in almes / I suppose that the parlyment hath
 no power to these thynges : for they be an-
 nexed to the ryghte spirituall, wherof the
 tempoꝛal iurisdiction hath no power. For the
 inferiour may nat indge vpon the superiour.
 But to make a lawe / that there shal nat be
 gyven aboue so many blacke gonea / oz that
 there shal nat be any herode of armes there,
 But he that is buried were of suche a degree,
 oz that no blacke clothes shal be hangd in
 the stretes fro the house, where he dyed, to
 the church, as is vsed in many cyties and
 good townes, oz to prohibite suche other
 thynges as be but wordely pompes, and be
 rather consolations to the frendes that be
 on lyue, than any reliefe to the soule, that is
 departed, wherfoze the church fauoureth
 them nat : I thinke the parlyament hath
 good auctoritie to make a lawe / I praye the
 let me knowe thy mynde, what thou thinkest
 in these dyuersities. Stud. Verily I thinke
 that in all cases befoze rehersed / the pa-
 rlyament with a cause hath good auctoritie to
 make lawes / as if it were ordeyned by the
 parlyment, that at suche burials the church
 shulde neyther haue torches nor taper, nor

The firste

noz charette, ne none other thyngge lyke, But
that they shulde alway pertayne to the ex-
ecutors to the vse of the testatour: hit were
a good statute, and oughte to be obserued/
as well by spyrytuall men as by tempo-
rall: and this I take to be the reason why/
for all goodes, though they be in the handes
of spirituall men, be temporal, concernynge
the body and nourysshynge the body as they
do to temporal men. And John Gerson
holdeth the same opinion, as hit appereth in
his treatise of the spiritual lyfe of the soule,
the.ii. lesson, and the.iii. corollarie / wherof
mention is made moze at large in the fyrste
dialogue in englysshe, the.iii. chaptre. And
al temporal thynges the kynge and his pro-
genytours / as in the ryght of the crowne/
haue in this realme alwaye ordered / and
iudged by his lawes. And therfore I sup-
pose, that the parliament maye enacte, that
there shal nat be layde vpon a deade persone
but suche a clothe, oz thus many tapers oz
candel set vp about hym. And here I wolde
saye farther in one thyngge, and that is this/
that no prescripcion had by auctoritie of the
spirituall lawe maye gyue no righte within
this realme to those mortuaries / that we
speake of now, ne to the sayde mortuaries.
that

Addicion.

that be put away by the sayde statute: ne yet to any pension or annuities: But if any ryght shall be wonne therein by prescription, it must be by a prescription had after the course of the lawe of the realme, and the best prescription therof is this, that is to saye, that no mannes mynde may remembre the contrarie therof, wherof the prescription is made.

And if this be trewe, than haue many mortuaries be claymed, and taken in tyme paste, withoute title, wherby the takers haue bene bounden to restitution. And that it is trewe, that I haue sayde of suche prescriptions of mortuaries and pensions / me thynketh hit maye appere thus: If there were a lawe made by the church / that at euery buryall the Curate shoulde haue all the tapers and torches, that were aboute the corpes / I suppose that hit is cleere, that that lawe bounde nat in this realme / there as no prescription was therof befoze. And if a lawe made by the church shoulde nat in this case bynde, how shoulde than a prescription / grounded onely vpon the lawes of the church, bynde? I can nat se howe: But if it were in a countrey, where the church hath souerayntie in temporal thynghes, it were the greater doute. And in this case many say, that a prohibition

The firſte

oughte of ryght to be graunted to prohibite
the ſpirituall inges / that they ſhall nat gyue
ſentence agaynſt the preſcription of the kyn-
ges lawe / wherby any temporall goodes
may be bounde, as wel as that they ſhall nat
holde plee of that that belongeth to the kyn-
ges lawe / But ſuche appꝛohibicion is nat in
uſe . But if hit were enacted, that a prohibi-
cion ſhulde hereafter lye in that caſe, I ſup-
poſe, that hit were a ryghte good and a rea-
ſonable ſtatute . And alſo whether ſuche a
preſcription / after the lawe of the churche,
gyue tytle for tythes, is after ſome men the
greater queſtion : But I wyll no farther
ſpeake therof at this tyme . And as to the
coote armour, ſhelde, and ſwerde / and ſuche
other thynges, as be ſome tyme ſet vp at the
buriall of noble men, ſome men ſay, that they
belonge nat to the churche, but to the execu-
tours : and that they ought to remaine ther
to the honour of the body, and to the memo-
riall of the ſoule, as longe as they wyll en-
dure . For there was neuer gyfte therof
made to the curate / wherby any pꝛopꝛetie
myght growe vnto hym . And a caſe moche
lyke to theſe ſayenges is in the .ix. yere of
kynged . the .iiii. where an action of tres-
paſſe was bzought for takyng awaye ſuche a
roote

toote armour. &c. And there were some of opinion, that the action laye well, howe be hit the case is nat iudged: but what so euer the lawe be therin, I thynke hit be no great doubt / but that if a statute were made / that they shulde belonge to the executors, that the interest of the curate, what so euer he had therto befoze by prescription, constitution, or other wyse, were determyned: and so me thynketh, that the parlyament may as dyrectely make a lawe concernyng suche mortuaries, as hit may do of any other temporal goodes within the realme, and than as to the nombze of prestes and clerkes, that shulde be bydden to suche buryalls, I thinke / that the parlyment may wel vpon a certayne payne prohibite, that none shall call to suche a buriall aboue a certayne nombze of prestes and clerkes to be assigned by the parlyment, after the degree of hym that is buryed, and specially to prohibite / that none shall gyue any money or other rewarde to any / aboue that noumbze / though they come vncalled. For suche statutes be for ordynge of temporal thynges, and to fore se, that the kinges subiectes shulde nat be charged, but as the parlyament shulde thynke expedient for the welthe of the realme, and therfoze they are

The seconde

to be obserued in lawe and conscience. And thus I haue Bewed the / parte of my conceyte / what me thynketh concernynge the said mortuaries. Doctour. I thanke the for the payne that thou haste taken therein : and sayth thou haste somewhat touched, what the parlyament maye do in these mortuaries / whiche concerneth somewhat the spiritualltie, I pray the, that thou woldest Bewe me some what more of thy mynde / what the parlyament may do in other thynges concernynge the spiritualltie. For I thynke it were good and necessarie to be knowne / for the good orde of conscience of many persones, and the appeyng of many and great diuersities of opinions in this realme. Student. To treate of that matter at length, it wolde aske a greatt tyme : but I will with good wyll bryefely touche some articles therof / and haply thou shalt by them knowe the better, what the parlyament maye do concernynge the spirituall iurisdiction in other cases lyke. But I praye the take me nat / that my meanninge is ; that I wolde, that suche statutes shulde be made, as I will speake of : for I do hit nat to that intente : but onely to Bewe the power of the parlyament, what they may do / if they lyfte to execute theyr power.

The

The seconde addicion, what the parliament may do concernyng the spiritualltie and the spiritual iurisdiction / and what nat.



Tud. I suppose it may be enacted by the parlimēt, that no landes, ne other enseritance, shall hereafter be gyven in to mortemayne / by licence nor without licence / But that all feoffementes / fynes, leasses, and reconeries, by couyn or bi assent of the parties hereafter made or had for mortmayne, or to the vse of mortmaine, shall be voyde, and that the house shall take no interest by hit : But that it shall remayne styll with the feoffours or gyuers, or to suche other vse / as the parlyamente shall appoynte. For lyke as the parlyament maye ordeyne, that all feoffementes and fynes / made to any maner of persone shall be voyde, and that every man shall stande styll seysed of his lande / without makynge of any alteration of possession therof to any other, moze stronger hit maye ordeyne, that no alteration of possession shall be made in to mortemayne. And that a statute maye be made / that there shall be no alteration of possession of landes to no man, as hit maye appere

The seconde

appere by the wordes of Iohn Gerson in his treatise of contractes the .vi. consyderation: where he saythe thus: Contractes be nat therfore pceptely to be sayde vnlawfull and voyde / bycause they maye be redeemed by the lawe made for suche redemption for he sayeth, that they that wolde saye so, wold condempne the hygh maker of lawes, that is god hym selfe: whiche in his iudiciall lawes, gyuen by Moyses to the Iues (as the texte is open/leui.xxv.) wylleth, that he that selleth his enheritaunce may redeme it. And if he redeme it nat / yet it shulde retozne agayne in the yere of Iubilie. for it is there sayde to the Iewes thus: All the region of your possession shall be solde vnder the condicion of redemption. ¶ And though that lawe byndeth nat nowe Chyristen people / yet a like lawe therto myght be made by chyristen princes, whiche than by that newe constitution oughte to be obserued and kepte / as diuers of the sayd iudicials haue ben in many countreys. Thus far be the wordes of Iohn Gerson. And me thynketh / that if a lawe myght be made, that if a man sell his lande, that he may neuer the lesse redeme hit within certayne yeres / whether the byer wyl or no / though no suche condicion were spoken of at the

the makynge of the bargayne : that lyke reason is that a lawe maye be made , that there shall be no sales , but that euerye man shall continually stande still seised of his landes , as I haue said befoze. And I suppose verily , that suche a statute shuld be good and profitable , as wel for them that haue such landes in mortmayne , as for many other . And Baldus de Perusio saith , that suche a statute shuld be good to prohibite / that no landes shuld come into mortmayne : but nat to prohibite , that no goodes shuld come into mortmayne . And me thynketh , that his sayenge is good and reasonable.

The thirde addicion / what the parlyament may do concernynge the spiritualtie , and what nat.



Student. I thynke also , that the kyng by parlyament may breake al appropziations , that be made agaynst any statute , or agaynst the good orde of the people / or agaynst the comen welth / & the cause is this : There can no church be appropzied , but that the patronage of the aduouson therof must be gyven befoze

The thynde

Befoze the appzopziation to the abbotte, oz
pziour, oz other, to whom the ppiacion shal
be made / and to theyr successours. For if hit
be gyuen but for terme of life / the appzopzia-
tion can nat stāde in effecte but for terme of
life. And bicause the aduouson is a temporal
enheritance, therfore hit is vnder the power
of the parliament to ordze hit, as hit seethe
cause. And to bzynge hit agayne to be pre-
sentable, as it was fyrste. And in like wise,
if a man bzynge a wozitte of ryght of aduou-
son against him, that hath suche an aduouson
appzopzied to his house / and reconereth the
aduouson: the appzopziation is dissolued. For
the appzopziation can no lenger contynue /
than they haue the patronage. And the par-
liament may leaue the aduouson to the house /
as an aduouson presentable, if they se cause /
oz they may gyue hit to the fyrste gyuer / oz
other wise dispose it as the matter requireth.
And vnder suche maner all the Vicarages
that were vnyed, annexed, oz appzopzied /
fro the fyrste yere of kynge Ricuarde the.ii.
vnto the parlyament holden in the.iiii. yere
of kyng Henry the fourth, were dissapzoned.
And by the same statute of Henry the fourth
it is enacted, that all Vicarages appzopzied
after the statute made in the.xv. yere of king
Ri-

Richarde, agaynst the fourme of the sayde
 statute / Shall be disappropried, excepte the
 Vicarage of Haddenham in the diocese of Ely:
 as in the sayde statute appereth. But yet
 I suppose, that the parlyamente maye nat
 make an appropziacion without spirytuall
 assente : ne I meane nat, that hit were
 good, that all appropziacyons shulde be
 broken : but I haue spoken this, to shewe
 what auctoritie the parlyament hath / if they
 wolde execute hit. And if there be a rea-
 sonable consideration, why hit is done, than
 the disappropziacion holdeth as well in con-
 science as in the lawe. And good it is, that
 the auctoritie of the parlyament be knowen
 in this behalfe, to the intende that hit maye
 cause them the rather to obserue suche sta-
 tutes / as be alredye made of suche appro-
 pziacions, and to dispose some parte of the
 frutes therof amonge the poure parrys-
 shys / accorдынge to the statute of the .xv.
 yere of kynge Richarde the seconde, made
 in that poynte. And if hit were asked
 them / why they haue nat obserued the sayde
 statute, they haue none other excuse / but
 eyther to saye, that they knewe nat the
 statute, or elles that the statute hadde no
 power to bynde them to hit. And I suppose
 verily

The fourth

Verily / that neither of those sayenges can be
any resonable excuse vnto them in þe behalfe.

The fourth addicion concernynge
the power of the parlyament as
anenste the spiritualtie.

Student. All the sepntuaries in Eng-
lande, as well in churches as other / and
also where a man shal haue his clergie,
and where nat / be vnder the power and au-
ctoiztie of the parlyament. Dctour. I sup-
pose, that hit is by the spirituall auctozitie,
that a man shal be defended by a sepntuarie,
oz haue his clergie. Student. Naye Verely:
but by the olde customes and maximes of
the lawe of the realme. And therfore the
kynge's Iustices shal iuge, where a man shal
haue sepntuarie oz his clergie / and where
nat. And if the ordinarie wyl nat come to
receyue them, that be clerkes, the kynge's
Iustices may set a fyne vpon hym. And also
the kynge's perdon shal discharge one, both
of the sepntuarie and out of the bysshoppes
prison. And so it appereth, that the bysshops
haue the keepynge of suche, as be admytted
to theyr clergie, by auctozitie of the kynge's
lawes, and nat by their owne auctozite. And
thougħ

~~lawes, and not by their owne auctorite.~~ And
 though the title of seyntuarie, and the libertie
 where a man shall haue his clergie be vnder
 the power of the parliament, yet the parlia-
 ment hath nat broken them, ne extended his
 hole power on them, to put them generallie
 awaye: but in perticuler cases some time hit
 hath. Doctour. Whyghte the parliament
 breake a seyntuarie / that is graunted by the
 pope: Student. The pope by him selfe may
 make no seyntuarie in this realme: but if the
 kyng and the pope to gether do hit, the olde
 custome of the realme serueth, as mooste men
 say, that hit is good. But yet if the kyng
 after that graunte / by auctoritie of his par-
 lyament auoyde his owne graunte, than re-
 mayneth but onely the popes graunte: and
 that suffiseth nat to make a seyntuarie / as I
 haue sayd befoze: but the parliament with-
 out the pope may make a seyntuarie, with
 suche penalties as they shall thynke conue-
 nient to set vpon the breakers therof. But if
 the pope do after confirme that seyntuarie,
 and graunte that no man vnder peyne of the
 censures of the church do breake hit: hit is
 the stronger, howe be it the seyntuarie taketh
 his full strengthe in that case as to the lawe
 by the parliament.

The fyfte
The. v. addicion concernynge the
power of the parlyament a-
gainst the spiritualtie.



Turd. I suppose also, that the
parliament may assigne al the
trees and gresse in church yar-
des either to the persone, to
the Vicar, or to the parisse,
if they se cause. If or thoughe hit be hallo-
wed grounde, yet the freholde therof, the
trees, and herbes are thinges tempozall, as
they were befoze the hallowinge: And that
the parlyment hath power to ordeine them (as
is said befoze) it appereth by a statute that is
called Statutum contra rectores, ne pro-
sternant arbores in cimiterio, that is to say
the statute against persons, that they shal nat
cutte downe trees in the church yarde. In
whiche statute it is recyted, that the soyle of
the church yarde / whiche in the lawe of En-
gland is called the freholde, belongeth to the
church. And than the statute goth farther, &
prohibiteth al persons, that they shal nat fel
them / but it be for the necessary reparacions
of the chauncell / but that they shal let them
stade stil to defende the church fro the great
tempesteous windes and wether, and than it
semeth,

semeth / that lyke as the parlyment hath au-
 thozytie to prohibyte persones / that they shal
 nat sell the trees in the churchyardes / whan
 they wolde, that it hath authozite as well to
 take the hole propertie of the trees fro them
 if they se cause / & that they may gyue them
 to the parisshe / if there be a resonable consi-
 deration to moue them to it. And yet neuer
 the lesse, the iuges. for a churchyardes. wyl
 most commonly put the courte out of iurisdic-
 tion / and remytte it to the spirituall lawe, to
 determine to whom it belögeth of right, But
 I take that to be by a custome / and a fauour
 of the lawe / and nat of a mere ryght, as of
 the lawe of god. And therfore if the parlia-
 ment wolde ordeyne, that the ryght of chur-
 chyardes, and of all thynges in them shuld
 be tried in the kynges courtes / I thinke the
 statute might well do it. But as I haue said
 befoze, the parlyment wyl nat extende theyr
 power to many thynges, that they myght do
 if they wolde, and specially in these matters
 I thynke they wyl nat. For surely as well
 the parliament as the kynges courtes / of the
 kynges benche & cōmon place, & al the cōmen
 lawe, as I suppose, haue ben & be as fauor-
 able to the spirituall iurisdiction / as well in
 suche churchyardes, tithes, offringes, & such
 oþer

The fyfte.

other as any law hath ben: in so moche that
in the kinges beche & comen place they wyll
suffre no issue to be ioined specially betwixte
person & person / wherby the right of the ty-
thes might be tried : howe be hit that in the
escheker somtime they haue done otherwise.
And for a farther pzoofe, that the parliamēt
may orde a churche yerde and trees and
grasse, as is aforesaide, some make this rea-
son, they saye hit is enacted by the statute of
Ric. the .ii. the .xv. yere, & the .v. chaptre,
that lādes that be made church yardes, and
be hallowed & made varialles without ex-
cense of the kinge and chiefe lordes, shall be
in case of mortemayne: And they saye, that
of that it foloweth, that if the kyng or lord
entre, for that the churche yerde was made
agaynst the statute, that the hallowinge ther
by his adnnlled: for els (they say) the statute
shulde be voyde. And if the statute haue po-
wer to adnull the hallowinge, made against
the statute, they saye moze strengier hit may
orde the trees and grasse, that be growinge
vpon it, bycause they be tempozall as is said
befoze. And in that case if the lord entre by
reason of the statute / and the person putteth
hym out, and the lord bringe assise / and the
person pleadeth, that it is a churche yerde,
and

and demaunde iudgement / if the courte wylle
 holde plee therof, and than the lord sheweth
 howe he entred by force of the sayd statute,
 and pleadeth in certayne: that is a good plee
 to gyue the courte iurisdiction. And thus
 I suppose verely / that the parliament maye
 ordeyne the trees and gresse in a church yerde /
 as I haue sayde, and yet the grounde to re-
 mayne styll halloweed, as it dyd befoze.

The synthe addicion concernyng
 the power of the parlyame-
 ment anenst the spiri-
 ritualtie.



Student. I suppose also, that
 hit may be enacted by aucto-
 ritie of the parliament / that
 if a spirituall man suffre his
 houses to decay & dye: that
 his successour shal haue reme-
 dy in the kynges courte, aganst his executo-
 rours, & that it may be prohibited, that no suite
 of dilapidation shalbe here after taken in the
 spirituall courte / for it is brought to haue as-
 mendes for the wast & decay done in houses
 by his predecessour, which is all temporal &
 belongeth to the kynges courtes, as wastes

Ball.

and

The spyle

and trespas do. And howe be it that no action lyeth for the successour in suche case for the waste at the comen lawe: yet that is nat sufficient to proue, that an action may lie therfore at the spiritual lawe. For if a person of a church make a lease for terme of yeres / and the lesse dothe waste, in that case the person shal haue no remedy at the comen lawe, and yet he shal nat therfore haue any remedy at the spiritual lawe. And also in diuers statutes it appereth, that if a man haue iugement in the spiritual lawe to do penance as is enioyned hym, that the iuges spiritual may nat tourne that penaunce in to money, onelesse the partie wyl frely aske hit: leeste they myght by that meanes gyue iugement of temporal thynges. And if they may nat tourne penaunce into money: But by the free wyl of the partie, than more stronger they may not holde ple in this mater, where none other thyng is in hariaunce but waste of houses, and where are demaunded damages, as was in the prohibition of wast at the comen lawe. And therfore some men say, that a premunire facias or a prohibition lyeth in this case, at this day / if the groundes of the lawe were thoroughly looked vpon: howe be it by cause of the custome so longe vsed and suffred to

to the contrary, peradventure it were nat good
to alter the lawe therein without parliament/
But they thynke verily that the parliament
may well alter it. And to enforçe theyz rea-
son they saye, that sythe the courte Christian
may nat by the lawe awarde damages for
beatinge of a clerke / but onely to put hym to
penaunce for layenge violent handes vpon
the clerke, that moze ströger they may nat in
this case awarde damages for the wast, that
is nothyng els but a tempozall offence.

¶ The .vii. addicion concernynge the auctozite
tie of the parlimēt & spiritualltie.

Student. If it were ordeined by sta-
tute, that no pzeſte ſhuld weare any
cloth made out of the realme / noz a-
boue ſuche a pzeice, vpon a certayne payne / oz
that chaplains ſhal nat take aboue ſo moche
for their ſalary, I ſuppoſe that theſe ſtatutes
were good, bycauſe they cōcerne the ozdzing
of tempozall thynges : but to appoynte the
faſſypon of theyz garmentes oz of their ton-
ſure, it is moze doute whether the parlyment
may ſet any peyne vpon it oz nat. Doctour.
It hath nat be ſene, that any penall ſtatutes
haue bene made by parlyament concernynge

The ſeuenth

apparel of the clergy in this realme, for that
 hath alwaye ben ordred by the conuocation.
 And also it appereth in the statute made in
 the. xxxvi. yere of kyng Ed. the. iii. the. viii.
 chaptre, that whan defaute was founde by
 the commons of excessiue wages of chapleyns
 that the parlyment dyd nat orde the wages
 but the kyng and his lordes, at the petition
 of the commons, moued the archbysshop of
 Canturbury therof / and therupon he and
 other bysshoppes afterwarde enformed the
 parlyament, that they had sette the wages
 in certayne, and that no chapelayne shulde
 take moze than they had appoynted, vpon a
 peyne by them lymptted. And if any spiritu-
 all men gaue moze. &c. they to forsayte the
 double to certayne uses by the conuocation
 appoynted. And that no chaplayne shulde
 remoue fro one diocese to an other / without
 letters of thordinarie, from whose diocese
 they remoued. And it was than ordeined by
 the parlyment, that no tempoꝛall man shuld
 gyue moze wages than the bysshoppe hadde
 assigned, vpon peyne to forsayte as moche
 to the kyng : as in the said statute appereth.
 And also the statute wyllteth farther, that he
 that fyndet hym greued agaynst that ordi-
 nance / shal haue his remedy in the Chancery.

But

But it appereth nat, that there shulde be any
remedy, therupon at the common lawe. Stu-
dent. The vertue of spiritual men / and the
fauoure of the realme vnto them / and their
wisedome, policie, and byghe auctoritie be
and haue ben great in this realme : wherby
many thynges haue ben forborne, that myght
lawfully haue bene done / as I suppose. And
in the statute made in the. ii. yere of kynge
Henry the. v. wages of chapleyne were set
in certayne by the parlyment. And trouth it
is, that by the sayde statute. xxxvi. Ed. iii.
the. ix. chap. it is enacted, that who so euer
fyndeth hym greued agaynst the sayd ordy-
nauce, made of the sayde wages / shal haue
remedy in the Chancery, as thou sayest. And
therfore it foloweth therupon, that if chap-
leyne may by auctoritie of the parliament
be lawfully put to answer in the Chancery
before the Chancellour, whiche sitteth there
only by the kinges auctorite, that they may
as welke vpon a reasonable cause be put to
answer by auctoritie of the parlyment after
the processe of the common lawe. Doctour.
By sub pena, whiche is the processe used in
the Chaucerie, the persone shal not be ar-
rested, but be onely warned to appere.
And it is directlye ayenste the canons, that a

B. D.

preest

The seventh

preest Shuld be arrested, and paraventure at
the makynge of the sayde statute the parlia-
ment had respecte thereto, and thoughte his
reasonable; that they Shuld rather be put to
answere in the Chancery where theire bodies
Shulde nat be arrested, than at the common
lawe, where they might be arrested. Studēt.
Though the persone Shal nat be arrested by
a sub pena, yet if he appere nat in the ende he
Shal be proclaimed rebell, and than thereupon
his bodye Shal be arrested. And also if the
partie wyl nat perfourme the iugement gi-
uen vpon a sub pena, there is none other exe-
cution in the Chancery / but to committe
him to prison tyl he haue performed it. And
therfore (as it semeth) the parliment regar-
ded nat that poynt. wherfore I suppose ra-
ther, that the statute was made as to that
article vpon this consideration, that by cause
vpon a decre made by the conuocation, ther
lyet the no action at the common lawe, but at
the spirituall lawe / and by cause this matter
concerned gpyng of wages, whiche were
thynges tempozall, hit was thoughte rea-
sonable, that the offenders agaynst the de-
cree made in the conuocation, Shulde be
putte to answer in the Chancery, whe-
re is the kynges court: But his myghte

as well haue ben enacted, that they shoulde
haue bene putte to aunswere at the com-
mon lawe as in the Chancerye / if the par-
lyament wolde / as I suppose. But to that
poynte, that thou haste spoken of before,
that it is agaynst the canons of the church,
that a preeft shoulde in any cases be arrested,
the common lawe pretendeth, that the kyng
as in the ryghte of his crowne, and by his
common lawes hath that auctoritie, and so
hit is dayly put in execution.

And if the common lawe be so all redy, than
there needeth no statute to be made of hit.
Never the lesse by cause our entente nowe at
this tyme is to speake onely / what the par-
lyament may do concernynge the spiritual-
tie, and what nat, therfore I wyll no far-
ther speake of that matter but onely this,
that if there be offence in them / that execute
the common lawe therin, that is a greatte
meruayle, that spirituall men haue done no
more to reforme hit, than they haue done:
and if there be no offence therin, than were it
good / that hit were so openly known, that
all scrupulosytie of conscience myght be a-
nuyded. For as hit standeth nowe there re-
steth in some persones, that execute the lawe
therin, a doute in conscience: And by reason
of

The senenths.

of that doubte they offende / that shoulde nat
offende, if the matter were plainly declared.
For than wolde they either clerely cease / or
elles procede accordyng to the lawe with
good auctorite.

The. viii. addicion concernyng
the auctorite of the parlia-
ment & the spiritualltie.

Student. If there were a scisme in
the papacye / who were ryghtwysse
pope / the kynge in his parliament,
as the hychte soueraygne ouer the people,
whiche hath nat onky charge on the bodies,
but also on the soules of his subiectes, hath
power for the quietnes and suretie of his
realme to ordeyne and determyne, who shal
be in this realme holden for ryghtwysse pope,
and may commande / that no man spirituall
nor temporall shal name any other to be
pope / but hym that is so auctorysed in the
parlyment : ne sue to any other as pope / but
onely to hym. And a statute of lyke effecte
was made in the. ij. yere of kynge Ricuarde
the. ii. the. viii. chapter / where pope Urban
was adyndged in the parlyment to be lawfully
chosen pope. And sythe the parlyament, for
ape

aperynge of diuisions, that might ryse in the
realme by suche a scisme in the papacie / may
sette a remedy : why than may nat the kyng
and his parlyament in lyke wyse, as well to
the strength of the faith, and to the helthe of
the soules of many of his subiectes, as to
saue his realme from being noted of heresy,
serche the cause of suche diuision, as is now
in the realme by diuersities of sectes & opi-
nions & and to knowe also by whom, and by
what occasion the noyse hath risen / that ther
wulde be so many heresies in this realme, as
ar noted to be : And whether there be suche
heresies or nat, & nat to put any to answer
thervpon after the proceffe of the lawe : but
charitably to examine the trewth therein / and
thervpon by theyr wysdomes to deuise some
charitable waye for vnitie and peace . And
great rewarde shall they haue of god / that
putte to theyr handes to auoide the great
daunger, that is lyke to falle to many soules
as well of men spirituall as tempozall, if
this diuision continue longe . And as farre
as I haue herde / al the articles that be mis-
lyked in this behalfe, sowne ept her agaynste
the woꝛldely honoure / woꝛldly power / or
woꝛldly ryches of spiritual men : but to ex-
pzeffe the articles I holde it nat moſte expe-
dient.

The. Bill.

cient. And Verily if it be true that some haue
 repozted, many of them be so farre agaynst
 the treuthe, that I suppose no chzisten man
 wpll holde them, beleuyng them to be true:
 But that they do it for some other considera-
 tion. And though they do nat well in that
 doyng, howe good so euer the consideration
 be / for no euylle is to be done / that good
 shulde folowe: yet they do nat so euylle / as
 if they helde them, beleuyng them also to
 be trewe, ne hit wylle nat be so harde to re-
 moue them fro it, as it wolde be / if they dyd
 beleue them in dede. For if it be so, that
 they beleue them nat, than the cause remo-
 ued / hit is to thynke that they wolde syght-
 lye be reformed. And therfore if it were
 ordeynede for a lawe: that euerye curate at
 the deathe of euerye of theyr parrysens,
 shulde say for theyr soules in audience Pla-
 cebo and Dirige, and masse, without ta-
 kyng any thyng therfore: and that they
 shulde also at a certayne tyme, there to be
 assigned by parlyment / as hit were ones in a
 moneth, or as shalbe thought conuenient / do
 in like wise, and praye specially for the sou-
 les of their parrysens, and for all chzisten
 soules, and for the kynge and the holle re-
 alme, And religions houses to do after the
 same

same maner, I suppose, that in Bozte tyme
there wolde be but fewe, that wolde saye/
there were no purgatorie. And in lyke
wyse if hit were ordred so by the pope, that
there myghte be certayne generall pardons
of full remission in diuers parties of the
realme, whiche the people myghte haue for
saynge of certayne orysones and prayes,
without payenge any money for hit, hit is
nat vnlyke / but in Bozte tyme there wolde
be very fewe / that wolde fynde any defaute
at pardons. For verily hit is a greatte
comforte to all Chyffen people to remem-
bre, that our lord loued his people so mo-
che, that he wolde to theyr relpese and com-
forte leaue behynde hym so greatte a trea-
sure: as is the power to graunte pardons:
whiche as I suppose nepte vnto the treasure
of the pzeious body in the sacrament of the
alter, may be accompted amonge the great-
test. And therfore he labored greatly to his
owne hurte / and to the great heuynes of all
other also, that wolde endeuer hym selfe to
prone, that there was no suche power lefte
by god. And I suppose verily, that if suche
free pardons were graunted (as I haue spo-
ken of before) and that than other pardons
were afterwarde graunted, to haue the ayde
of

The eyght.

of the people for some charitable cause / as
to respyte the Turke, or suche other: that the
people wolde as diligently receyue those
pardons, to be partakers of the good dede,
as they wolde be, if there were no suche
fre pardons graunted before. And I thinke
verily / that if the kynges grace, and his par
lyament loke nat vpon these matters, it will
be harde to tell / who shall be able to do it.

And vnder this maner Naitanus kyng
of Pictes toke great labour and dyligence
for the appesynge of the diuision and vary
aunce / that was amonges his subiectes (as
welke spirituall as tempozall) for the due
tyme of keepynge of the Ester. For some men
in that varyaunce kepte Ester, whan other
kept palme sonday, and that was seen some
time in one house. In whiche scisme many
great clerkes and holy men were of seuerall
opinions, in so moche that the blessed man
saynt Aidan, whiche was a holy bisschoppe,
erred longe in the due tyme of keepynge of
Ester, and had many folowers, and yet was
he no heretike. For that that he dyd therin,
he didde with mekenes, and as he thoughte
stode accordyng to the treuthe: and therfore
there was but littell offence in him. For ap
peasynge of this scisme / the sayde kyng
Naitanus

Naitanus sent messengers to seint Colfride,
 than beyng abbotte of the monasteries of
 seynt Peter and Paule, that he shoulde ry-
 uers of Tyne and Tweede, and where as
 Venerable Bede was brought vp / to be in-
 structed in the due tyme of keepng of Ester /
 and of the tonsure of clerkes / whiche was
 than also in variaunce, wherupon the sayde
 holy man Colfride wrote a letter vnto the
 said kyng Naitanus, declaryng vnto him by
 many auctorities of scripture / the very due
 tyme of keepnge of Ester, and shewed his
 mynde also in the sayde tonsures, and when
 the sayde letter was redde before the kyng
 and his lordes, & that the tenure therof was
 playnly interpretate and declared vnto him,
 he rose vpe from amonge his lordes, and
 kneeled downe vpon his knees, and thanked
 almyghty god / that had sente hym suche a
 gyfte out of the countrey of Englande.

And it is nat to thynke, that he dyd thus, in-
 tending to gyue sentence therein by his owne
 auctozite / for that belonged nat to him / but
 he dyd it to knowe the trouthe, and that he
 myghte therupon shewe his fauoure to the
 better parte. And if the kynges grace wold
 in this case endeuor hym selfe to knowe the
 truth of the cause of this diuision, I suppose

L

that

The eyght

that he wass in some article wew his fanour
to the one parte, and in some other article to
the other parte. Also whan the heresie of
Euticetis rose at Constantinople, whiche erro-
red in the trinitie, the blessed man saint The-
odoro than archebysshoppe of Canterbury,
to the intēt he wolde kepe the church of En-
glade fro that errour, gathered all the clero-
gie to gether, and examined them diligently
what they thought concernynge the articles
of the heresie. And whan he founde them
all stedfaste in the catholike septs, he wrote
a letter of their beleue: and for instruction
of them þat wolde come after, sent it to Rome.
And the effecte of this letter was this.

We beleue and constantly confesse after holy
fathers, to be verily and truly the father /
the sonne and the holy gooste, a Trinitie in
Unitie, and a vnite consubstancial in Trinitie,
that is one god in thre persones consubstan-
tiall of equal glorie and honour.

And amonge other thynges that he wrote,
whiche perteyned to the septe / he sayd af-
terwarde.

We also accepte the holpe and vniuersall
fyue synodals of holy fathers: and we ac-
cepte and glorifie our lord Jesu Chryste /
as they glorified hym / nothyng addynge

noz dymynysshynge. And we glorifie god the father without begynnyng, and his onely sonne, gotten of the father before the worldes / and the holy gooste procedynge of the father and the sonne so as can nat be spoken: as they, that we haue remembred, the holy apostels and propheetes and doctours haue preached and taught.

And me thynketh: that these examples shuld some what incorage them / that nowe maye do good in this euyl and peryllous tyme, to folowe somewhat after, and euery man / after as his degree is, to do the best that he can therein to helpe hit / nat regardynge worldly honoure / worldlye rycheffe, noz synfuler profite: but onely the honoure of god, and the loue of theyr neyghbours, and helthe of theyr soules. And if they do so, vndoubtedly the warke shall prosper well in theyr handes. And lette no man, that maye do good in this matter / suffre it to ouer passe as though he hit perseyued nat to hym: for also myghty god hath gyuen a commandement to euery man vpon his neyghbour. And to encorage them selfe yet the more vnto it, lette them remembre the wordes, that be spoken in the fyrste booke of the reuelations of saynt Brigette, the .i. lii. chapitre, where

The eyght

our lord Jesu amonge other thynges sayde
to our ladye thus : I wolde (sayde he) if it
were possible, suffre for everye man suche a
payne as I ones suffred for all men vpon
the crosse, so that they myghte comme to the
inheritaunce promised / happye be they than /
that helpe soules to that inheritaunce, that
our lord despyreth so moche to haue them
come vnto. And somtime it hath be brough
about by saye meanes / that coulde nat be
done by rigour and compulsion. And if my
lordes and maysters spirituall wyll nedely
forthe with their strait corrections and pu-
nishmentes / without finding some prouision,
that the myndes of the people maye somme
what be eased, in suche thynges as they haue
mysliked and grudged at in times past: it is
to feare / that there wyll nat folowe so good
frute of it as there wolde do, if they wolde
do it, & that they wolde bewte them selfe eu-
dently to do nothyng but onely of a zeale &
loue vnto the people. And it is a doute to
some men, whether some of the thynges that
the people mislike and finde defaute at,
be occasions actiue or passiue to the people to
offende. But whether they be the one or the
other, charitie wolde (as hit semeth) that
some diligence shulde be put to moue them,
though

though percase they were nat euyl But in
different, or parauenture good of them selfe.

The .ix. addicion concernynge
the auctozite of the parliment
and the spirituaillie.



Student. If it were enacted
by the parlyament, that if a
man calle an other these or
murderer, that an actiō shulde
lye therupon at the common
lawe, and that no sute shulde
lye therupon at the spirituall lawe, I thinke
it were a good statute / for the matters wher
upon the wordes yse are onely to be deter-
mined by the comen lawe. And so it is if a
man calle an other Villayne, an action lyeth
theron at the comen lawe, if he be free, and
nat at the spirituall lawe, bycause the ryght
of the villenage may nat be tried but at the
comen lawe, and most men say / that if there
be an inditemēt of felony at the comen law :
that than there lieth no sute therof in the spi-
rituall lawe, so that there nedeth no statute
to be made in that poynt. Doct. If a statute
were made / that an action shulde lye at the
comen lawe of suche wordes as a man hath
L.iii. any

The nynt^h

any losse oz wordely hynderance by / though
they haue besore tyme bene used to be sued
only in the spiritual courte : I thinke thou
the statute were good: Student. I thinke the
statute were good / and most comonly vpon
suche wordes some wordely losse oz hindrance
one way oz other doth folowe, but I thinke
that in tho cases the parlyment may nat pro-
hibite, but that they that lyfte may also take
their sutes at the spirituall law, if they wil,
so that the spirituall lawe make no recōpence
to the partie. Also of all annuities / whether
they haue begynnynge by prescription com-
position real oz otherwyse, I suppose it may
be enacted, that the sute shalbe taken only in
the kinges court, & nat in the spiritual court,
for nothyng is to be recovered in suche sutes
but money, whiche is temporal, in whose han-
des so euer it come spirituall oz temporal.

The tenth addicion concernynge
the auctoritie of the par-
lyament as to the
spiritualte.

Student. If it were enacted, that no re-
ligious person shuld receiue in to the ha-
bite of their religion any chyld vnder a
cerv

certaine age to be appointed by the parliamt.,
 and that after his entre he shuld nat be remo-
 ued fro þ place that he was receiued in with
 in a yere after vpon a certeyne peine without
 assent of his frēdes: I thinke it were a good
 estatute, for that statute shulde nat prohibite
 entre into religion. For if hit byd so, I sup-
 pose it were nat to be obserued: But it orde-
 reth the maner of entre in to religiō, for such
 enfantes, whiche is ryght expedient for the
 icōmen welth. And a statute of lyke effect is
 made for the .iiii. orders of freres in the .iiii.
 yere of king Henry the .iiii. where the .iiii. p-
 rincipals of the said .iiii. orders were swozne,
 by layenge theyr handes vpon theyr brea-
 stes in open parlyament to obserne the sayde
 estatute. And vpon the same grounde some
 saye / that if hit were enacted, that no man
 vpon a certaine peine shulde affie the daugh-
 ter in her fathers house / without assente of
 the father, hit were a good statute: and yet
 a statute hath no auctoritie to prohibite nor
 to confourme do ryght of matrimonie: but
 as the churche prohibiteth it / or consermeth
 it. And therfore if hit were prohibited, that
 no lordes sonne shulde affie an housbande
 mannes daughter / or suche other, and if he
 byd thaffiource to be doyd, I thinke that

The tenth

statute were voyde. But if the statute were /
that no lordes sone, vnder a peyne, shuld make
affiance with any woman, that is a stranger
borne / without the kynges licence / I thynke
that statute were good / for hit prohibitet
nat matrimonye / But settethe an order after
what maner it shal be made, and that vnder
suche forme as may haply be necessarye for
the suretie of the realme. And of a lyke ef-
fecte therto is the lawe, that the kinges wy-
dowe shal nat mary without the kynges ly-
cencce, and that she shal be swozne therto in
the Chauncerye whan she is endowed. And
lyke lawe is also, that the lord shal haue
the mariage / or the value of the mariage, or
some tyme the double value of the mariage
of his warde by knyghtes seruice. And also
if a mā mary a bond woman without licēce,
the lord by the comen lawe shal haue an
action of trespass agaynst hym, that marieth
her. And all these lawes be good, for mere-
ly they prohibite nat maryge, no moze shuld
a statute do for entre in to religion, as me se-
meth. For hit prohibitet nat entre into reli-
gion: but hit prohibitet that none shal be re-
ceiued in to the habite befoze his yeres of di-
screcion / and that after his entre he shal be or-
dred in suche maner, that if he wyll after be

professed, it shall rype of his owne fre wyll,
and of a lone to serue god: and nat by any si-
nistre meanes nor coloured perswasions.

Also as I suppose, the parliament may wel
enacte: that euery man, that hath the profite
of any offerynge by recourse of pylgremes /
shall vpon a certayne payne / nat onely set by
certaine tables to instructe the people / vnder
what maner they shall worshyppe the sayn-
tes, but also to cause certayne sermons to be
made there perely to instructe the people,
howe they shall worshyppe them, so that
thzough ignorance and disordzinge of them
selfe, they do nat rather displease the sayn-
tes, than please them.

It may also prohibite / that no miracle shal
be nopsed vpon so lyghte occasions as they
haue bene in some places in tyme past. And
that they shall nat vpon a certayne peyne be
set by as miracles, ne be nopsed / nor repo-
ted as miracles by no man, tyll they be pro-
ued for miracles, vnder suche maner as by
the parlyament shall be appoynted. And hit
is nat vnlyke, but that many psons grudge
more at the abusion of pilgremages / than at
the selfe pylgremages. And in lyke wyse of
dyuers other articles, if the trowthe were
groundly serched. And vnder this maner it

L.v.

hath

The tenth

hath ben al redy enacted by parliment, to the strengt of the septs, that no man shall presume to preche without licēce of the diocesan except certaine persones excepted in the statute, as appereth in the seconde pere of kyng Henry the iiii. And vnder this maner the parlyament may ordeyne many good lawes for strengt of the faith / and for the good orde of all the people as well spirituall as temporal, though it iudge nat vpon the ryght of thynges that be mere spiritual. And al these diuersities and many other mo than I can rehearse now / they that be lerned in the lawes of the realme be specially bounden to know, that they may enstrucke the parlyment whan neede shall require, what they maye lawfully do concernynge the spirituall iurisdiction / and what nat. And therfore spirituall men are bounde charitably to here their opinions therein, and what they thynke be immediatly grounded vpon the lawe of god, or vpon the lawe of reason, and what nat. For comonly the parliment hath ouer tho lawes no direct power but to strengthen them, and to make them to be moze surely kept it hath god power. And if spirituall men and temporal men wold charitably lay their hedes to gether / fully determyn what the parliment may do /

as wel edcerning the spiritual iurisdiction as
 the tempoꝛal / taking theſe addicions as litle
 tytlpnces, wherby they by theyꝝ wyſdome
 may cal to their remembꝛance greater thinges
 ſo that hereafter it ſhal nat ſtonde in the caſe
 as it doth now, that whā the parlymēt hath
 made a lawe concerning the ſpiritualtie, that
 ſpiritual men ſhall nat ſay / it byndeth nat in
 conſcience, as many haue done in tyme paſte,
 and yet do to this day : I thinke verily that
 there wold nothyng do moze good to appeſe
 ſuche variances, ſciſmes, and diuiſions, as be
 nowe abꝛode in the realme. And than alſo
 wold al men / as wel ſpiritual as tempoꝛal,
 rather take hede to them ſelfe, to ſe that they
 dyd nothyng noꝝ gyue occaſiō to the parlymēt
 to extende his power vpon them oꝝ their poſ
 ſeſſions / than to reſiſt oꝝ denye the auctozitie
 of the parlyment.

C The. vi. addicion concernynge the
 auctozitie of the parlyament
 and the ſpiritualtie.

D Octour. whether may the parlymēt
 prohibite, that no ordinary ſhꝛd a cere
 tayne peyne ſhal admit none to the oꝝ
 bꝛe of pꝛeſthode, except he be ſufficiētly ſer
 ned?

The. xi.

ned: Stud. I am in doute in this question,
and the thyng that causeth me to dout therin
is this, if it were enacted, as thou sayest / and
after an actio were brought vpon the penal-
tie, and thozdinarie wolde plede, that he that
was made pzeeste / was sufficiently lerned,
And ther vpon an issue were ioined / that issue
shulde be tried by .xii. men / and as it semeth /
it were nat reasonable / that .xii. men, whiche
comonly be vnlernd, shulde trye whether a
man were sufficiently lerned to be a pzeeste /
for they haue no knowlege therin. And ther
foze if any suche penaltie shulde be sette by
parliament, it semeth that it must be farther
enacted, that if the issue were ioyned (as is
sayde befoze) that than it shulde be tried by
spirituall men / or tempoꝛal men that be suffi-
ciently lerned therto or by bothe. Doctour
But thynkest thou than, that the parlyment
maye ordeyne, that spirituall men shall be
compelled to passe vpon enquestes: It se-
meth, that were agaynste the lawe of god,
and agaynst the perfection of their orde, and
to breake them from the deuocion of contem-
plation, that is requisite to them. For saynt
Paule saithe in his seconde epistol to Timo-
thee, the seconde chaptre: Nemo militans
deo, implicat se negociis secularibus, that
is to

is to say, Let no man, that hath set him selfe to serue god / intrike him selfe with secular Busynes. Whiche wordes be specially spoken of p̄stes. And therfore hit semeth he wolde do agaynst the sayeng of saynt Paule that wolde compelle p̄stes to go vpon enquestes. Student. Verily there is a wytt in the regeſtre, whiche is a boke of the lawe of Englande, that no Sheryffe shall empowell any p̄st vpon any enqueste, and that wytt may euery p̄st haue, that wyll sue for it. And I thynke ryght well / that that wytt is grounded vpon the lawe of the realme: takynge in that poynte his effecte vpo the law of god. And therfore I thinke / that the parliament maye nat enacte, that p̄stes shuld go vniuersally vpon enquestes: But to enacte that in this special case, whiche is nat mere tempozall, but to enquire of the sufficiencie of lernynge / and that to a good and a necessarie purpose, I suppose the parliament maye assigne them to it without breakyng the libertie of the church. and so they be many tymes vpon a wytt to enquire de iure patronatus, where p̄stes and lay men shall be ioyned to gether to enquire of the ryght of the patronage. And me thinketh, they myghte do in lyke case here, either by
them

The. xl.

them selfe, or to be ioynd with laye men.

Doctour. There they be called by the auctorite of the ordinarie / and here they shuld be called by the tempozall auctoritie. Student whether they be called by spirituall auctoritie or by tenpozall auctoritie, their busines is all one. For as great let is it to deuotion and contemplation / whan they be called thereto by the bysshoppe, as whan they be called therto by the kynge. And though, as thou sayest / the bysshoppe shall comāduē them to appere in that case, yet hit is by the kynges lawe, that he shall do so: whiche lawe the conuocation maye nat alter ne chaunge / but the parlyament myghte chaunge hit with a cause: For it pertaineth to the ordynge of tempozall enheritaunce, that is to say, to the ordynge of the patronage and of presentmentes of aduousons / whiche be tempozall.

Doctour. I can in no wyse se howe it maye stande with the lawe of god, that the parlyament shuld compell spirituall men to go vpon enquestes. And therfore if suche a statute shulde be made, the enqueste must be taken of tempozal men, that haue sufficient learning therto: and yet I regarde nat this poynt so moche in this questio, as I do that the mater of it selfe is so mere spirituall, that the parlyament

liament hath no power to sette any peyne vpon hit. For as hit semeth / if hit myghte do that, hit myghte as well sette a peyne vpon the tounes of clerkes, or vpon the order of the seruice / or what else they shoulde kepe, and that I suppose thou thyngest hit maye nat, and me thyngeth hit may no more do hit in this case. Student. I thynke well hit be as thou sayest in those cases: but in this case, that is so necessarye for the good order of the kynges subiectes and for the common welthe / me thyngeth / they maye / for if curates haue vertue and counnyng / commonly the people be vertuous, and vertue is the mooste chiefe and principall branch of the comen welthe. And therfore for encrease therof, me thyngeth / that the parlyament may well sette a peyne, although there were no spirituall lawe made in that poynt, before / as well as hit may of enfantes, that be receiued into the habite of religion, whereof mencion is made before in the tenth addition. But in this case sythe the spirituall lawe, is all redye, that none shall be made pfectes, but that they be sufficiently lettered, me thyngeth that the parlyament may moche more the rather do hit. And therfore, if the people wolde nat assent to kepe an holy day /
that

The .xi.

that were ordeined by the church, I suppose that the parliament, if they thought it reasonable to be kepte, myght sette a payne vpon all them / that wolde nat obeye vnto hit. And that hit myghte do lyke wyse vpon all oither lawes, that be made by the church for the good orde of the people, though hit myghte nat percase make a newe lawe in the selfe poyntes / for that shulde nat be a breakeynge of the lybertie of the church, but rather an affirmaunce of hit. Doctour. I fele thy conceite well: howe be it I can nat fully as yet, assent vnto hit: and therfore I praye the gyue me a sparynge therin, and at a better leysure I shall with good will shewe the farther of my mynde therin. And nowe I wyll aske the a nother question.

The .xii. addicion concernynge the
auctoritie of the parlyament
and the spiritualtie.



Doctour. It was asked of me but late, if certeine wast grounde / wherof was neuer any profite taken, and that laye within no parisshe, but in some iorresse / or that
is

is newly wonne fro the see, were brought in to errable lande, whether the parliament myghte appoynt, who shulde haue the tythe therof: And he that asked me the question / thought it myght: I praye the shewe me thy concepte / what thou thynkest therein.

Student. I thynke, that if the freholde be in the kynge, that he may assigne the tithes ther of to whom he wyl: and if the freholde be in a cōmon person / that he may do lyke wyse. But than I thynke, that if that commen persone do nat assigne the tithes so / as hit may stande conueniently to the mayntenaunce of the seruice of god, that the parliament maye do it, and ordeyne the tythes to thencrase of goddes seruice, as they shal thynke cōueniēt.

Doctour. I can nat se, howe the parliamēt, ne yet the partie shulde haue auctoritie to medle with tithes, that be spirituall / and pertaine alway to the spiritual iurisdiction. And therfore I suppose, that in this case tharchbishopps, as soueraygne heed ouer the spiritualtie / shulde in this case haue thordayning of the tithes, as thinges spirituall, to whom none other hath right: and neither the kyng, nor no common persone. Student. Though tithes be spirituall / yet thassignement of the tythes to other is a tempozall acte, whiche

the parliament with a cause may ordeyne, as it may do all temporall thynges within the realme. And that the kynge or any other that hath the frehold of suche wast groundes as he in no parisshe may assigne þe titthes ther of to whom they wyll, it may appere thus. Befeore parysshes were deuided / and befoze that it was ordeined by the lawe of the churche, that euery man shulde pay his titthes to his owne churche: euery man myght haue payde his titthes to what churche he wolde, and myghte one yere haue gyuen hit to one churche / and an other yere to an other: or haue graunted them to one churche for euer, if he wolde. And lyke as euery man, befoze the sayde seuering of parysshes, myght haue gyuen his titthes to what churche he wolde, bycause he was bounde to no churche in certayne: so may they do now, that haue landes, that lye in no paryshe: for they be at libertie to assigne them to what churche they wyll, as all men were befoze the sayde lawe made that tythes shulde be payde to the propre churche. And if tharchebysshop shulde haue ryght to them, bycause no man can of ryght claime them: thanne befoze the sayde lawe made, archebysshoppes had ryght to al the titthes within their prouinces: for no man had

hadde right to any tithes, but by thassygne-
ment of the owners. And therfore if the
freeholde, in this case that thou haste put, be
in the kynge, than he shall assigne the tithes,
where he wyll: and in like wyse of other of
his subiectes, as I haue sayde before.

Doctour. Thou speakest in this case, as
thou were lerned in the spirituall lawe / for
these matters perteyne therto / and nat to
the lawes of the realme. Student. I speke
therin accorpyng to the olde lawe and cu-
stome of the realme, whiche yet contynuet
in suche places, as be out of any parrysse, as
hit dydde before parryssees were lymytted /
and before the sayde lawe was made / that
tithes shulde be payde to theiꝝ pꝛopꝛe chur-
ches: And that there is such a custome part-
lye it appereth in a case, that is in the lawes
of Englande, whiche happened longe tyme
fyrthe the sayde lawe was made, that tythes
shulde be payde to theiꝝ pꝛopꝛe churches.

Doctour. I pꝛaye the shewe me what case
that is. Student. In the .xxii. yere of kynge
Edwarde the .iiij. in the boke of assise it ap-
pereth, that the kynge graunted the tythes
of certayne assertes, that were newly taken
out of the foress of Rocke, to a pꝛouest, and
he therupon bzonght a Scire facias agaynst

The .xii.

diuers / that toke the said tithes, retournable
into the Chancerie: and there exception was
taken, that the sute pteyned to the spiritual
courte, and nat to the Chancerie: and hit
was answered agayne / that that was to be
Vnderstande / where the sute was taken a-
gaynst them / that oughte to paye the tithes,
and nat where it was brought against them,
that were wrongfull takers of the tithes.
And therupon the defendauntes were put to
answere / and pleded to an issue / whiche was
sente downe in to the kynges benche to be
tried accorde to the lawe, and there / the
defendants made defaute: wherupon the
playntiffes prayed execution. And in this
case Thozpe sayde / that the olde lawe hath
ben alway, that the kyng in suche case shuld
assigne the tithes where he wolde. And that
sayenge I take to be Vnderstande, where the
freholde is in the kyng, as I haue sayde be-
foze. And though the said case be nat iuged,
yet it appereth therby, that the kyng made
assignement of tithes, whiche was admitted
to be good, so that the parliament shal nat
uede to medle therwith, ones it be his plea-
sure to assigne them by auctoritie of his par-
lyment: as he may do / if he wyll / to make
his letters patens to be of the moze higher
recozde

recorde, than they shuld be withoute the par
liament. Doctour. Trouth it is, that the
kyng and other owners and possessioners
of lande somtime payed their tithes to what
churche they wold: but whan it was ordey
ned by the churche, that tythes shulde be
payde to theyr owne churche: than the people
were bounden by that ordinaunce to paye
them accordynge, and so they dyd. And ther
fore if there were a lawe made now by the
churche of suche particuler tithes, as yet re
mayne styll out of any paryshe, that they
shulde be payde to the paryshe nexte adioy
nyng, or to the ordinarie, or to the Metro
polytan, or in suche other maner, as the chur
che shuld thynke reasonable: me thynketh it
were a good lawe / and oughte to be obeyed
as well of tho particuler tithes, as hit was
fyasse of all tythes generally. And if the
churche maye make a lawe therin, than me
thynketh the parliament shulde haue no po
wer to make any lawe therin. Student.

Whan the churche had ordeyned / that the ti
thes of every man shulde be payde to theyr
owne churche / and the people receyued that
lawe / and payde theyr tythes accordynge:
than by that assent, the lawe was confir
med: And if the churche wolde nat haue

The .xij.

made that lawe, I thynke the parlyament
myght: for it was for the rest and quietnes
of all the people, and that none myght haue
refused that lawe so made by parlyament,
But to the lawe made by the church some did
nat obeie, but payde theyr tythes to other
churches as they dyd before. And tho chur-
ches vnto this day haue good right to those
titthes, as porcions belongyng to their chur-
ches / though the grounde lye not within their
paryshe: & so hath the kyng and the owners
and possessours of suche waste groundes,
that be out of all parishes at this day, good
right to assigne the titthes therof, where they
wyll. For as to those groundes they neuer
receyued any lawe to the contrarpe: and so
I thinke it bindeth them nat in that behalfe.
And no more shulde any newe lawe do, that
were made by the church of suche titthes / ne
pulle the lybertie fro them, to assygne them
where they wyll, without theyr assent. And
where thou sayest, that if the church maye
make a lawe of a thyng, that than the par-
lyament hath no power to make any lawe
therin / I thynke that grounde holdeth nat.
For if the church wolde graunt a disme to
be payde to the kyng, it were wel graunted:
But if they wolde nat, the parlyament maye.
And

And in lyke wyse thowghe the church hath made a lawe, that curates shulde be resident vpon their benefices: yet the parlyment hath also made a lawe / that they shall be so, and bothe lawes stande in good strength and effecte, as I suppose. And in lyke wise it is of the statute of vsurpe / whiche was made in the .x. yere of kynge Henry the .vii.

The .xiii. addicion concernynge
the power of the parlyament /
and the spiritualtie.



Dector. whether may the parlyament prohibite / that none ordinarie, ne none other / that hath power to visite / shall nat take any moneye or pencion of the houses or places, that they visite at theyr visitation: Srud. I thinke the parlyament hath good power to do it. For for money that they receiue, though it be giue by occasiō of a spiritual thing, is tēporall, & is vnder the power of the parlyament, as all tēporall landes and goodes be. And if there be a cause reasonable why they shulde make that prohibition, than it byndeth as well in conscience as

The .xlii.

hit dothe in the lawe: and an example is
therof by the probate of testaments. For
though the probate be a thyng spirituall, yet
the parlyament hath of late, as it myghte
lawfully do, set a payne / that none shall pay
for the probate above a certayne some ly-
mitted by the statute. And also by the statute
that is called in latyn Statutum de Carlioa
li de asportatis religiosoru, hit is enacted,
that no house of religion of beyonde the see,
shulde from thensforth under colour of vi-
sitation or other colour, sette any tollage or
imposition vpon any house of religion, that
is subiecte vnto hit in Englande: vpon the
payne to forsayte all that hit hath vnder the
kynge's power. And the statute wyl further,
that neuer the lesse the sayde abbottes and
priours aliens shall nat ceasse of their visi-
tation within this realme: so that they beare
no money nor goodes from the houses in
Englande. And me thynketh / that lyke as
the parliament had than power to prohibite,
that the abbottes and priours aliens shulde
nat under colour of visitation or otherwyse
set any tollage or imposition vpon any house
of religion, subiecte to them in Englande,
that the parliament may nowe as wel prohi-
bite, that none vnder colour of visitation, or
other

otherwise, that take of any house of religion
 or church / that they shall visite, any somme
 of money, or other thyng, what so euer it be.
 For me thynketh, that the reason in the one
 case and in the other is all one. Doctour.
 It semeth naye. For at the makinge of that
 statute / the parliament entended principally
 to prouide, that no goodes shulde be coueied
 out of the realme by any religious perso-
 nes, whiche they dyd some tyme vnder co-
 lour of Visitation: but in this case it nedeth
 nat to prouide any remedye in that behalfe,
 as hit is euident of hit selfe. For there be
 no goodes coueied out of the realme by rea-
 son of suche Visitation. Student. Though
 the principall intent of the sayde parliament
 was to prouide, that no goodes shulde be
 coueied out of the realme by religious per-
 sons: yet as for a speciall suertie, that hit
 shulde be so / they thoughte hit necessarye to
 prohibite, that the heed houses of beyonde
 the see, shulde nat by colour of theyr visita-
 tions in Englande do it. For they thoughte,
 that that was a redy way to brynge the mo-
 ney into theyr handes, that they myght af-
 ter carie hit with them in to theyr countrey:
 And sythe the parliament had than auctori-
 tie to prohibite, that the sayde visiters shulde

Do.

nat

The .vii.

nat. by colour of their visitations gather any
tollage or imposition sette vpon them, that
they visited in Englande: why myght nat
the parlyament nowe lyke wyse prohibite/
that the Visiter, at theyr visitations, shulde
gather no suche tollage or imposition, as
hath ben set in tyme paste vpon suche houses
and churches as they do visite. For certayne
hit is, that at the begynnynge of visitations
no such impositions na pences were payde,
But that they haue ben brought vp syth that
tyme, eyther at the mocion of them that were
visited, to the intent that they might therby
haue the more fauour of theyr visiters, or
els by power or compulsion of the visiters,
or for theyr singular lucre, or haply by both
wyyses. But what weye so euer it beganne:
if it shulde hereafter come to the poynt, that
the visiters at their visitations, by reason of
the sayde impositions or pences, shulde be
enclined to any singular affection / and so to
forbeare the good reformatiōs / that they
ought to loke to in the monasteries and churches,
that they visite, wherby euyl doers
shulde take boldnes to continue in euyl, and
well doers be discouraged fro their vertuous
exercyses in the seruice of god: I suppose ver-
ily, that they that by good auctorytie and
with

with a charitable intent wolde take the sayd impositions and pensions fro the sayde visiters, wuld deserue therby ryght great thake and rewarde of god. But I trust, there shal be no suche cause to moue them to it.

And nowe I entende thus to make an ende of the auctorite of the parlyament for this tyme: and wylle aske of the but one more question/ concernynge the matter/ that we treated of in the fyrste addicion, and so comyttte the to our lord. Doctour. what is that. Student. It is this: If a curate/ by the the statute of mortuaries, thynkynge the sayde statute to be agaynste the libertie of the church, perswadeth his parsons to beleue, that al they that kepe the statute, stande in the censures of the church/ and therby he induceth many of them / specialllye at the popnt of dethe, to recompence hym as muche as their mortuaries by estimation wolde haue admounted to: whether hath he good righte to that, that is gyuen vnder that manner? Doctour. If it be as thou sayest/ that the statute standeth with conscience / thanne hath he no right therto in conscience. For he cometh to it by an vnjust meanes, and groundeth hym selfe for the haupnge of hit, vpon an vntruth: and so the gyuer is deceyued in
his

his gyfte, and therfore it bindeth nat in conscience, though hit bynde in the lawe. And I suppose / that though the curate saye as he thynketh therein, that yet it suffiseth not, but that he is bounde to restitution. For ignorance, as me thynketh / can nat excuse the restitution, though the paraventure hit maye excuse hym, that hit shall nat be in hym any deadly synne. Student. I thynke hit be as thou sayest, and as it is in this poynte, it is in diuers other articles vpon the said iurisdictiones. wherfore me thinketh, it wolde be more playnely declared in many thynges / what belongeth to the one iurisdiction, & what to the other / than it is yet, as I haue sayd before, & that hath caused me to treat farther in this matter now at this tyme / than I thought to haue done. Doctour. I thynke hit be as thou sayest: but if I myghte be so bolde / I wolde desire to knowe thy mynde in one thyng and no more, and that is this: of what effecte the statute is, that was made the .ij. yere of kyng Henry p. v. the first chap. wherby hit is enacted, that ordinarie shall haue power by the kynges commission to enquire of the hospitals of his foundation, & of their gouernance, & to certifie the kyng in his Chancery therof. And of hospitals of other foundations

Addition.

foundation haue power to enquire / and do
correction after the lawe of holy church.
Student. At a leiser I wyll gladly shewe the
my mynde therein, but for this tyme I praye
the holde me excused, for I wyll no more
speke of that matter as nowe. And thus god
of peace and loue be alway with vs. Amen.

FINIS.

The table.

What power the parlyament hath ouer
suche thynges, as be brought with deade bo-
dies to their burialles / and that be claymed
by some curates to pertaine to their church.
the firste addition. fol. 2.

Whether the parlyament may enacte, that
no landes shall come hereafter in to mozt-
mayne by licence nor without licence, the se-
conde addition. fol. 5.

Whether the parlyament may breake all
appropziations / that be made agaynst any
statute, or agaynst the good ordze of the peo-
ple / the thyrde addition, fol. 7.

That all seintuaries, and also who shall
haue his clergie be vnder the power of the
parlyament, to ordze as they shall thynke
conuenient / the.iiii. addition, fol. 8.
what

The table.

What power the parlyament hath in the
trete and grasse in churchyardes / the fyfte
addicion. fol. 9.

What the parlyament maye do touchynge
the futes for dilapidations taken in the spi-
rituall courte, the. vi. addicion. fo. 11.

Whether the parliament may enacte / that
no pzeest shall weare any cloth made out of
the realme, and whether it may order the sa-
lary of chaplayne, the. vii. addicion. fol. 12.

If there were a scisme in the papaci what
the parlyament myght do therein / the eyght
addicion. fol. 14.

If it were enacted, that if one calle an o-
ther these or murderer, that the sute shuld be
taken therupon in the kynges court / and nat
in the spirituall courte, I thynke the statute
were good. the. ix. addicion. fol. 19.

Whether the parlyament may enacte that
no religious persone vnder a certayne peyne
shall receyue into the habite of their religion
any chylde vnder a certayne age to be ap-
poynted by the parlyament, the tenth addi-
cion. fol. 19.

Whether the parlyament may prohibite /
that no ordinarie, vnder a certayne peyne
shall admytte none to thozdye of pzeesthode,
excepte they be sufficientely lerned / the.
xi.

xi. addicion.

fol. 22.

Who shall haue the tythes of the waste
groundes that be within no parryshe, & what
power the parlyament hath therein the .xii.
addicion.

fol. 24.

What auctoritie the parlyament hath con-
cernyng visitations. the .xiii. addicion. fol. 28.

**Thomas Bertheletus regius impressor
excudebat, Anno domini .M.**

**D. xxxi. Cum priuilegio
a rege indulto.**